



2024:DHC:7957-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2811/2018**

DELHI POLICE

.....Petitioner

Through: Mr. Amit Tiwari, CGSC with
Ms. Lavanya Kaushik, GP, Mr. Ayush
K.Tanwar and Mr. Rahul Bhaskar,
Advocates

versus

MUKESH CHAND YADAV

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MS. JUSTICE SHALINDER KAUR

JUDGEMENT (ORAL)

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09.10.2024

1. This writ petition assails judgment dated 22 August 2017 passed by the Central Administrative Tribunal¹ in OA 4276/2016.
2. The respondent has been continuously absent after 4 July 2024. This is the third date of listing after the said date and the respondent is not present today either.
3. We have heard Ms. Lavanya Kaushik, learned counsel for the petitioner and perused the material on record.
4. The respondent, who was dismissed from the services of the

Signature Not Verified¹ "the Tribunal", hereinafter

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2024:DHC:7957-DB



petitioner, instituted OA 4276/2016 before the learned Tribunal, seeking a direction to the petitioner to pay leave encashment and interest at the rate of 12% on delayed payment of GPF from 4 October 2007, i.e. the date of his dismissal, till 8 November 2016, which was the date of actual receipt of the GPF. In the counter affidavit, the respondent submitted that under Rule 9², leave encashment could not be paid to a dismissed employee. Apropos GPF, it was contended that the employee was required to apply for release of the GPF and immediately on the application of the respondent, the GPF was released to the respondent on 8 November 2016.

5. The learned Tribunal has nonetheless in the impugned judgment directed leave encashment to be released to the respondent and has further directed that the GPF be released to the respondent with interest at the rate of 9% p.a.

6. The learned Tribunal has not adverted to either of the contentions raised by the petitioner.

7. No counter affidavit has been filed by the respondent to the present writ petition either. Nor has the respondent turned up to contest the matter.

8. The submission of Ms. Kaushik apropos the entitlement of the respondent to leave encashment is correct. Rule 9(1) of the CCS (Leave) Rules specifically excludes leave encashment from the entitlement of an officer, who is dismissed from the service.



2024:DHC:7957-DB



9. For want of any traversal by the respondent, we also have to accept the submission of Ms. Kaushik that the GPF was released to the respondent immediately on the respondent applying for it and that therefore no delayed payment of GPF could be said to have taken place.

10. In that view of the matter, the judgment of the learned Tribunal awarding leave encashment and interest on GPF to the respondent cannot sustain. It is accordingly quashed and set aside.

11. The writ petition is allowed in the aforesaid terms with no orders as to costs.

C. HARI SHANKAR, J.

SHALINDER KAUR, J.

OCTOBER 9, 2024/yg

Click here to check corrigendum, if any